

Division of Public Health

State of Nebraska
Dave Heineman, Governor

August 6, 2012

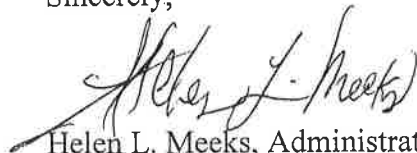
Nancy Gipfert
2453 Deaver Drive
Sidney, NE 69162

Dear Ms Gipfert:

This letter is written to request that you submit to Marsha Wandersee in the Licensure Unit by return mail, within the next seven (7) days, your current License to operate as a Family Child Care Home I in the State of Nebraska. This request is being made since said License has been revoked, effective August 3, 2012, by the Notice of Revocation issued on July 19, 2012 by Joann Schaefer, MD, Chief Medical Officer and Director, Division of Public Health, Department of Health and Human Services.

If you have any questions, please contact Child Care Licensing at (402) 471-9302.

Sincerely,



Helen L. Meeks, Administrator
Licensure Unit

HLM/dcp

cc: Child Care Licensing

**NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA**

IN THE MATTER OF:

**THE OPERATING FAMILY CHILD CARE HOME I) NOTICE OF REVOCATION
OF NANCY GIPFERT)**

LICENSED LOCATION: 2453 DEAVER DRIVE, SIDNEY, NE, 69162

NOTICE:

Nancy Gipfert (hereinafter referred to as "Gipfert") is hereby notified that the Nebraska Department of Health and Human Services, Division of Public Health (hereinafter referred to as "Department") intends to revoke Gipfert's Operating Family Child Care Home I License for violation of the following:

AUTHORITY:

Nebraska Revised Statutes, section 71-1919 provides that "the Department may ... take disciplinary action against a license issued under the Child Care Licensing Act on any of the following grounds:

(1) Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the act;

(4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program;" ...

391 NAC 4-001.04 Suspension or Revocation: "The Department may initiate suspension or revocation proceedings under any of the following circumstances: ...

2. When a licensee has violated a regulation(s) so as to create a situation which places children at substantial risk;

3. When a complaint of suspected child abuse or neglect has been filed; ...

5. When the child care/preschool provider has a criminal charge filed against him/her involving a crime against children or a crime involving intentional bodily harm; ...

7. When a licensee has violated any state statute regarding the care and protection of children;

11. When there is ... or substantial evidence of any offenses against children or adults including, but not limited to physical abuse, by the child care provider; ...

17. When a licensee has violated any regulation; ..."

391 NAC 6-001 Provider: "The child care provider shall assume responsibility for providing adequate and appropriate supervision at all times children are in attendance." ... (Page 3, Standard 6, Family Child Care Home Standards)

"The child care provider who has reason to believe child abuse or neglect may be occurring in the family child care home, in the child's home, or elsewhere shall immediately file a report with the Child Abuse-Neglect Hotline - 1-800-652-1999, and/or appropriate local law enforcement agency." (Page 3, Standard 15, Family Child Care Home Standards)

391 NAC 6-004.03 Report of Law Enforcement Record: "The child care provider is responsible for reporting any arrests, misdemeanor tickets other than traffic violations, pending criminal charges, and/or any felony/misdemeanor convictions on themselves, substitutes, secondary providers and/or household members when care is provided in the place of residence." (Page 5, Standard 26, Family Child Care Home Standards)

391 NAC 6-004.01 in pertinent part: "The child care provider and/or household members shall not engage in or have a history of behavior injurious to or which may endanger the health or morals of children." (Page 4, Standard 23, Family Child Care Home Standards)

FACTS AND FINDINGS:

Gipfert is the licensee of an operating Family Child Care Home I. This program is licensed for a maximum of 10 children, ages six weeks to 13 years of age, 6:00 a.m. to 6:00 p.m., Monday through Friday. This program has been licensed since prior to 1996.

The Department determined that the above regulations were violated by Gipfert. The facts are as follows:

1. On September 16, 2011, the Department issued and delivered an Emergency Order immediately prohibiting Gipfert from providing care to any child other than her own based on allegations that a child had been injured while in her care. The order was effective immediately.
2. On May 15, 2012, Gipfert was charged in the County Court of Cheyenne County, Nebraska, with one count of Child Abuse, a Class II Felony. Gipfert failed to report this citation to the Department as required by regulations. This case is still pending in county court.

Based on the facts presented above, the Department is revoking Gipfert's Family Child Care Home I license located at 2453 Deaver Drive, Sidney, Nebraska, 69162. Gipfert must send her Family Child Care Home I license to Marsha Wandersee at the address listed below seven (7) days after this action becomes final.

BE ADVISED:

That according to Nebraska Revised Statutes, section 71-1922, the action in this Notice shall become final on August 3, 2012, which is fifteen days after the mailing of this Notice unless the Department, within such fifteen-day period, receives a written request for a hearing. The license shall continue in effect until the final order of the director if a hearing is requested. If the director does not receive such request within such fifteen-day period, the action of the Department is final.

If you decide to request a hearing, your written request for hearing must be received by the Department no

later than August 3, 2012, which is fifteen days after the mailing of this Notice. It should be addressed to:

Marsha Wandersee, for DHHS
Children's Services Licensing
Licensure – Division of Public Health
P.O. Box 94986
Lincoln, NE 68509-4986

If you request a hearing, you will be notified of the time, date and place of the hearing and other pertinent information, by separate notice. On the basis of such hearing, the director will affirm, modify or rescind the determination of the Department. Be advised that pursuant to Nebraska Revised Statutes, section 71-1920, upon completion of any hearing held, the director may impose any or a combination of any of the following: probation, suspension, revocation, civil penalty, restrictions of new enrollment, restrictions or other limitations on the number of children or the ages of the children served in the program, or other restrictions or limitations on the type of service provided by the program. On the basis of the hearing, a modification by the director may include sanctions important to your program, up to and including the loss of your license.

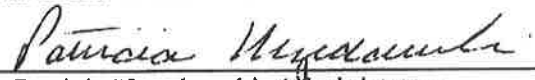
Nebraska Revised Statutes, section 71-1911, provides that a person who has had their "license suspended or revoked other than for nonpayment of fees shall not operate or offer to operate a program for or provide care to any number of children until the person is licensed pursuant to this action." In addition, section 71-1920, (2), states that "a person who has had a license revoked for any cause other than nonpayment of fees shall not be eligible to reapply for a license for a period of two years."

Nebraska Revised Statutes, section 71-1923 of the Child Care Licensing Act, provides that "a licensee may voluntarily surrender the license issued under the Child Care Licensing Act at any time, except that the Department may refuse to accept a voluntary surrender of a license if the licensee is under investigation or if the Department has initiated disciplinary action against the licensee."

Title 391 of the Nebraska Administrative Code, section 4-001.04, also provides that the "licensee shall not transfer the license to a household member or current staff member while a ...revocation action is still pending." In addition, Title 391 of the Nebraska Administrative Code, section 3-001.08, provides that "amended applications will not be processed whenever a negative license action is pending."

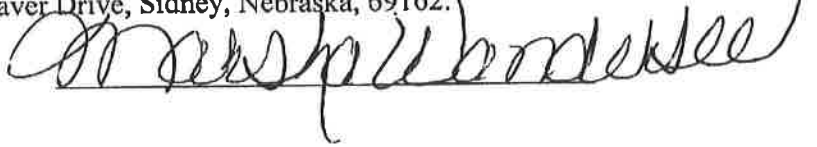
Dated: JULY 19, 2012

Joann Schaefer, M.D.
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services


By: Patricia Urzedowski, Administrator
Children's Services Licensing
Division of Public Health – Licensure Unit
Nebraska Department of Health and Human Services
P.O. Box 94986
Lincoln, NE 68509-4986

CERTIFICATE OF SERVICE

COMES NOW, the undersigned and certifies that on the 19th day of July, 2012, a copy of the foregoing **NOTICE OF REVOCATION** was sent by certified and first class United States mail, sufficient postage prepaid to Nancy Gipfert, 2453 Deaver Drive, Sidney, Nebraska, 69162.



**THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA**

IN THE MATTER OF THE) EMERGENCY ORDER and
FAMILY CHILD CARE HOME I) PROTECTIVE ORDER
LICENSE OF NANCY GIPFERT)

This matter comes for consideration on the Motion for Emergency Order and for Protective Order filed by the Nebraska Department of Health and Human Services, Division of Public Health. The Chief Medical Officer and Director of Public Health, having reviewed the Motion and accompanying Affidavit, finds as follows:

1. Nancy Gipfert holds a Family Child Care Home I License, located at 2453 Deaver Drive, Sidney, NE 69162.

2. An emergency exists requiring immediate action to protect the physical well being and safety of a child or children in the care of Nancy Gipfert.

WHEREFORE, IT IS ORDERED:


1. Pursuant to NEB. REV. STAT. §§ 71-1915 Nancy Gipfert is hereby and immediately prohibited from providing care to any child other than her own. Upon application to the Director, Nancy Gipfert shall be afforded a hearing as soon as possible and within ten days of the application, unless she requests that the hearing be held later.

2. Any reference in this matter to any child enrolled in the above child care program or any child residing in the home or to any child on the Child Abuse/Neglect Registry shall be made by the use of a number assigned to the child or by the use of the initial letters of the child's first and last name.

3. Any information which is confidential by state statute shall not be released to the public and all evidence in this matter is placed under seal and is not releasable to the public.

DATED this 16 day of September, 2011.

**NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES**



Joann Schaefer, M.D.
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

**THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA**

**IN THE MATTER OF THE
FAMILY CHILD CARE HOME I
LICENSE OF NANCY GIPFERT**

)
) **MOTION FOR EMERGENCY ORDER**
) **AND FOR PROTECTIVE ORDER**
)

COMES NOW the Department of Health and Human Services, Division of Public Health and pursuant to the Child Care Licensing Act, and specifically NEB. REV. STAT. § 71-1915 moves the Chief Medical Officer and Director of Public Health to declare an emergency and issue an Emergency Order prohibiting Nancy Gipfert, 2453 Deaver Drive, Sidney, NE 69162 from providing care for any children other than her own pending completion of an investigation into allegations that a child sustained injuries while in her care. The Department also requests a Protective Order pursuant to Neb. Rev. Stat. §84-914(2) to protect the privacy of any minor children whose identity may be revealed during the course of these proceedings, and to ensure the confidentiality of any information which is deemed confidential by state statute.

The Department requests the following:

1. That any reference to any child enrolled in the above child care program or any foster child residing in the home or any child of the licensee or any child on the Child Abuse/Neglect Registry be made by the use of a number assigned to the child or by the use of the initial letters of the child's first and last name.
2. All evidence in this matter be placed under seal and not released to the public.
3. That any information which is confidential by state statute be protected from release to the public.

In support of its motion the Chief Medical Officer and Director is shown the accompanying affidavit of Pat Urzedowski, Section Administrator.

WHEREFORE the Department moves the Chief Medical Officer and Director of Public Health for an Emergency Order prohibiting Nancy Gipfert from providing care to any children other than her own.

Nebraska Department of
Health and Human Services

Dated: 9/16/2011

A handwritten signature in black ink, appearing to read "Darrell D. Klein", is written over a horizontal line.

Darrell D. Klein NSBA #16875

P.O. Box 95026

Legal Services

Department of Health and Human Services

Lincoln, Nebraska 68509-5026

(402) 471-4052

Its Attorney

**THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA**

**IN THE MATTER OF THE
FAMILY CHILD CARE HOME I
LICENSE OF NANCY GIPFERT**

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AFFIDAVIT

STATE OF NEBRASKA

)

COUNTY OF LANCASTER

) ss
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Comes now Affiant, Patricia Urzedowski, being first duly sworn, and states as follows:

1. I am employed as the Administrator of the Office of Children's Services Licensing with the Nebraska Department of Health and Human Services Division of Public Health (hereinafter "Department").
2. The records of the Department show that Nancy Gipfert holds a Family Child Care I Operating License at 2453 Deaver Drive, Sidney, NE 69162.
3. In my capacity as Administrator of the Office of Children's Services Licensing, I am the custodian of all licensing records for licensed Child Care Programs.
4. A letter signed by Mike Brown, Chief of Police of the City of Sidney, NE and received on September 16, 2011 states, in part: "Nancy Gipfert has a licensed in-home daycare facility at 2453 Deaver Drive in Sidney, NE and she is a person of interest in this investigation. A two month old child has been seriously injured as a result of abusive head trauma and doctors have informed law enforcement that this child sustained these injuries during the time frame that the child was under the care/custody/control of Nancy Gipfert."
5. Based on the information contained in Chief of Police letter, Nancy Gipfert has violated the following Child Care Licensing Regulations:

391 NAC 4-001.04 Suspension or Revocation: The Department may initiate suspension or revocation proceedings under any of the following circumstances:

2. When a licensee has violated a regulation(s) so as to create a situation which places children at substantial risk;

3. When a complaint of suspected child abuse or neglect has been filed; ...
7. When a licensee has violated any state statute regarding the care and protection of children;
11. When there is a conviction, admission, or substantial evidence of any offenses against children or adults including, but not limited to: physical abuse, sexual abuse, sexual assault, neglect, or endangerment by the child care provider;

391 NAC 6-001 Provider. ...


The child care provider shall assume responsibility for providing adequate and appropriate supervision at all times children are in attendance. Any designated substitute shall have the same responsibility for providing adequate and appropriate supervision. ...

The child care provider who has reason to believe child abuse or neglect may be occurring in the family child care home, in the child's home, or elsewhere, shall immediately file a report with the Child Abuse-Neglect Hotline - 1-800-652-1999, and/or appropriate local law enforcement agency.

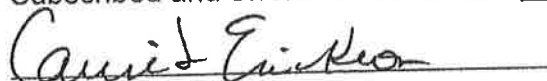
391 NAC 6-011.03 Discipline: The child care provider and/or his/her designated substitute is prohibited from using the following as a means of punishment:

1. Spanking, slapping, punching, shaking, striking with any inanimate object, handling roughly, or biting; ...

Further affiant saith not.


Patricia Urzedowski, Administrator
Office of Children's Services Licensing

Subscribed and sworn before me this 16 day of September 2011.



Notary Public

